IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5566 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC, VAHAN VYAVAHAR BHAVAN

Versus

KARMAN DEVA GADHVI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR PS PATEL for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 25/07/2000

ORAL JUDGEMENT

Heard learned counsel Mr. H.C. Rawal for the petitioner GSRTC and learned counsel Mr. P.S. Patel for the respondent.

2. The respondent Mr. Karman Deva GAdhvi was working as a driver under the GSRTC. While in service on 21-4-90 respondent was operating the bus on Porbandar-Ahmedabad route. On that day the respondent asked the conductor on duty not to realise bus fare from some passengers, who are the friends and relatives of the respondent driver. When the bus reached at the Rajkot depot, respondent slapped the conductor for realising bus fare from his friends and relatives. This matter was reported to the authority and departmental proceeding was started against the respondent driver. The inquiry was conducted in accordance with the rules & procedures and in the inquiry the charges framed against the respondent driver was proved. The disciplinary authority issued show cause notice on 13-11-1991. Respondent submitted his reply on 18-11-91. Disciplinary authority was not satisfied with the reply of respondent and after hearing him, disciplinary authority by an order dated 6-1-1992 dismissed the respondent from service. Departmental appeal was preferred which has been rejected on 29-8-1992. Thereafter second appeal was preferred on 1-10-92 which was heard on 25-2-92 and ultimately dismissed the appeal by order dated 30-5-1994. Thereafter, respondent moved the authority for referring the dispute to the Labour Court and accordingly that has been referred to the Labour Court, Junagadh, which registered the case being Reference (LCJ) No: 307 of 1993. The Labour Court after taking evidence and hearing the parties quashed the order of dismissal passed against the respondent, and directed the Corporation to reinstate the respondent in service and pay 25 % of the back wages. Having felt aggrieved by the order of Labour Court, Junagadh on 20-12-1999, the Corporation filed present petition praying for quashing the judgment & award of the Labour Court.

3. Mr. Rawal, learned counsel appearing on behalf of the Corporation submitted that the charges against the respondent for slapping the conductor on duty has been proved in the departmental inquiry, and therefore the Labour Court should not have interfered with the penalty imposed by the disciplinary authority. Mr. Rawal accordingly submitted that unless such misconducts are seriously dealt with, the Corporation would not be in a position to maintain discipline in office. Learned counsel accordingly submitted that the Labour Court has taken a liberal view in a serious offence committed by the respondent, and therefore the order of the Labour Court be quashed.

4. Mr. Patel, learned counsel appearing on behalf

of the respondent submitted that, the Labour Court has taken evidence and after discussing the evidence, Labour Court has held that there was some defect in the inquiry proceedings and there is reason to disturb the aforesaid findings of the Labour Court. Learned counsel for the respondent submitted that since there were some lacunas in the disciplinary proceedings the Labour Court has rightly reinstated the respondent in service with 25 % back wages. Mr. Patel accordingly submitted that the findings arrived at by the Labour Court after considering evidence adduced by the parties do not require any interference by this Court under writ jurisdiction.

5. I have considered submissions of learned counsel of both the parties. From the record it is evident that the respondent has slapped the conductor for charging bus fare from his friends and relatives. The defect in the inquiry proceedings indicated by the Labour Court do not materially affect the findings arrived at by the inquiry officer. It is an admitted fact that the conductor was slapped by the driver for charging bus fare from his friends and relatives. This misconduct has been proved during the inquiry and the findings of the inquiry officer do not suffer because of minor irregularity in the proceedings. Therefore, I am of the view that the order of reinstatement and withholding of one increment appears to be a lenient punishment as against the offence alleged to have been committed by the respondent. Therefore, I am of the view that, withholding of three increments with cumulative effect will meet the ends of justice in the present facts & circumstances of the case. Accordingly I am not interfering with the order of reinstatement passed by the Labour Court, but instead of withholding of one increment as ordered by the Labour Court, three yearly increments of the respondent shall be withheld with cumulative effect. As regards payment of 25 % back wages, I do not find any ground to interfere with the aforesaid finding of the Labour Court. The petitioner is therefore directed to reinstate the respondent in service immediately, if he is not already reinstated by this time. With the aforesaid modification in the judgment & award of the Labour Court, this petition is allowed in part. Rule is made absolute to the aforesaid extent. However, I make no order as to costs.

DT: 25-7-2000 (P.K. Sarkar, J)

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